



***MINUTES OF THE ONE-HUNDRED-AND-SEVENTY-FOURTH
MEETING OF THE MERIT BOARD – November 18, 2009***

***State Universities Civil Service System Office
1717 Philo Road, Suite 24
Urbana, Illinois 61802
&
(Video Conference)
University of Illinois at Chicago
Human Resources Building, Room 201D, 2nd Floor
715 South Wood Street
Chicago, Illinois 60612
&
(Video Conference)
Western Illinois University
Stipes Hall, Room 207
1 University Circle
Macomb, Illinois 61455
&
(Video Conference)
Southern Illinois University Carbondale
Morris Library
Conference Room, 1st Floor
605 Agricultural Drive
Carbondale, Illinois 62901***

Vice Chair Maitland called the meeting to order at 10:04 a.m.

Members present at the primary meeting location were: Joanne E. Maitland, Vice Chair, representing Illinois State University; Karan Hasara, representing the University of Illinois; John Simmons, representing Southern Illinois University; Barbara Vella, representing Northern Illinois University; and Robert D. Webb, representing Eastern Illinois University

Members present at the Chicago videoconference location were: Kristi DeLaurentiis, representing Governors State University; James D. Montgomery, representing the University of Illinois; Lawrence Oliver II, representing the University of Illinois; and Richard L. Tolliver, representing Chicago State University.

Member present at the Macomb videoconference location was: Donald “Bill” Griffin, representing Western Illinois University.

Member absent was: Grace Dawson, representing Northeastern Illinois University.

Also present were: Lewis T. (Tom) Morelock, Executive Director; Mary C. Follmer, Assistant Director, Legal Services; Teresa Rademacher, Secretary for the Merit Board; and Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. Various other university employees and University System Office staff were also in attendance.

Consideration of participation by other Merit Board Members, not physically present at meeting site

No members requested participation by teleconference.

Introduction of new Merit Board Members

Vice Chair Maitland welcomed Karen Hasara and Lawrence Oliver II, both representing the University of Illinois. Bios for Ms. Hasara and Mr. Oliver were included in the agenda materials. These new Merit Board members replaced David Dorris and Edward McMillian.

Public Comments

The board received no requests for Public Comments.

Consideration of the Minutes of the 173rd Meeting of the Merit Board, August 19, 2009

The minutes of the 173rd meeting of the Merit Board, August 19, 2009, had been transmitted to members of the Merit Board with the agenda materials.

Dr. Webb moved to approve the minutes of the August 19, 2009 meeting. Ms. Vella seconded Dr. Webb's motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried, with Mr. Simmons abstaining.

Consideration of the Closed Minutes of the 172nd Meeting of the Merit Board, May 20, 2009

The closed minutes of the 172nd meeting of the Merit Board, May 20, 2009, had been transmitted to members of the Merit Board with the agenda materials.

Ms. DeLaurentiis moved to approve and release the closed minutes of the May 20, 2009 meeting. Mr. Montgomery seconded Ms. DeLaurentiis' motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried, with Mr. Simmons abstaining.

Consideration of the State Universities Civil Service System Freedom of Information Act Policy

Ms. Follmer gave an overview of some of the major changes to the law in accordance with Public Act 096-0542. Some of the changes include: the appointment of a Public Access Counselor to review denials of public records by public bodies; a reduction in the number of days an agency has to respond to a record request to five business days; a change in cost of copying fees requiring the first 50 pages to be free and after 50 pages the cost cannot exceed 15 cents per page; and the elimination of the final review by the agency head and placing this review under the Public Access Counselor. A request under this law may now be allowed by email, fax, or written communication. The new policy will be posted to our website.

After some discussion, Mr. Simmons made a motion to approve the revisions to the Freedom of Information Act Policy for the State Universities Civil Service System. Mr. Montgomery seconded Mr. Simmons' motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. Simmons	Aye
Rev. Tolliver	Aye
Ms. Vella	Aye
Dr. Webb	Aye
Dr. Dawson	Absent
Ms. DeLaurentiis.....	Aye
Mr. Griffin	Aye
Ms. Hasara	Aye
Mrs. Maitland	Aye
Mr. Montgomery.....	Aye

Mr. OliverAye

Discussion and action on revised Employment and Separation Procedures

Mr. Morelock began the discussed that on July 22, 2009 several rule revisions were effective regarding sections 250.5, 250.60, 250.70, 250.90, 250.110 and 250.120 of the Illinois Administrative Code (80 Ill. Adm. Code §250.5, §250.60, §250.70, §250.90, §250.110, and §250.120). The various universities and agencies were informed regarding these major rule changes. Because of these rule changes many of the agency's procedures need to be updated. The proposed changes to the Employment and Separation Procedures Manual, Section 2, have been revised to incorporate the rule changes into the Trainee Appointment/Program. The proposed changes were discussed with the various advisory committees and employee groups. Mr. Morelock stated that a couple of additional modifications were made to this manual after the materials were sent to the Merit Board. He informed the Board of those additional changes.

A discussion was held regarding the previous Trainee Appointments and Learner Appointments and what impact the changes would have on employee opportunities and access to training programs. Mr. Morelock informed the Board that the hope was that these changes would facilitate the use of these training programs and expand its utilization.

After discussion, Mr. Simmons made a motion to approve the revisions in the agenda materials with the additional changes requested by Mr. Morelock. Ms. DeLaurentiis seconded Mr. Simmons' motion.

A roll call vote was taken and the motion was approved with the following vote:

Mr. SimmonsAye
Rev. TolliverAye
Ms. VellaAye
Dr. WebbAye
Dr. DawsonAbsent
Ms. DeLaurentiis.....Aye
Mr. GriffinAye
Ms. Hasara.....Aye
Mrs. MaitlandAye
Mr. Montgomery.....Aye
Mr. OliverAye

Update and action on proposed rule changes to section 250.110, Separations and Demotions, and section 250.120, Seniority, of the Illinois Administrative Code, regarding Furlough Programs

Mrs. Maitland began the discussion stating that the Board would need to act on two issues. The University System office prepared new draft proposals of the furlough rule for Board review and presented the Board with information regarding the rulemaking process. The Board was also presented with comments received from several universities. Mr. Morelock stated that draft 2, changes Section 250.110(b)(5)(G) "Program Approval" to "Required Notification" and revised that section to only require a 15 calendar day notification process. Due to the pressing economic issues, the universities have communicated a sense of urgency and requested that these rule proposals be submitted as soon as possible. The Board needs to therefore decide if these changes will be submitted under the General Rulemaking process or the Emergency Rulemaking process. At the August Board meeting, the Board voted to circulate and publish these furlough rules in the Illinois Register in accordance with the General Rulemaking process. As of this Board meeting, these rule change proposals have not been published in the Illinois Register.

Ms. Follmer gave an overview of the rulemaking process.

- The General Rulemaking process gives the public time to comments. The proposed rule is published in the Illinois Register for the First Notice Period of 45 days to allow public comments to be made to the University System office or to the Joint Committee on Administrative Rules (JCAR). University System staff then evaluates the comments and prepares a draft of an amended rule revision based on public comments or JCAR recommendations. The Merit Board then approves the final draft to be submitted to JCAR for the Second Notice Period. The Second Notice Period of 45 days or less provides another opportunity for public comment and formal JCAR review. JCAR then takes action on the proposed rule at a public hearing.
- The Emergency Rulemaking process provides no notice to the public. The Board would approve the rule and submit to JCAR based on the existence of an emergency situation. JCAR would place the rule on their next monthly meeting for review. JCAR then takes action on the proposed rule at a public meeting. This rule could be approved in as little as 10 days. If a Suspension of Emergency Rule is issued, it must be lifted by further JCAR action before the rule can go through the General Rulemaking procedures. At some point, the Emergency Rule would end, replaced by a similar rule that would be submitted through the General Rulemaking process if desired.

Mr. Follmer further stated that the General Rulemaking process could be rushed by the Board agreeing to meet as soon as the First Notice Period is over. The 45-day First Notice Period ends in mid-January.

After a lengthy discussion, Ms. DeLaurentiis moved to submit the rule change proposal to the General Rulemaking process. Mr. Simmons seconded Ms. DeLaurentiis' motions.

A roll call vote was taken and the motion was approved with the following vote:

Ms. DeLaurentiis.....	Aye
Mr. Griffin	Aye
Ms. Hasara.....	Aye
Mrs. Maitland	Aye
Mr. Montgomery.....	Aye
Mr. Oliver	Aye
Mr. Simmons	Aye
Rev. Tolliver	Aye
Ms. Vella	Aye
Dr. Webb	Aye
Dr. Dawson	Absent

After further discussion, Ms. Vella moved to approved draft 2 of the proposed rules. Mr. Simmons seconded Ms. Vella's motion. Mr. Montgomery questioned the wording "must be inclusive" in 250.110(b)(5)(D) and that the wording should be changed now and not later. Mr. Montgomery made a motion to revised draft 2 further by changing the word "must" to "may" in section 250.110(b)(5)(D). Ms. Vella accepted the revision to the previous motion. Mr. Simmons seconded the revised to the motion.

A roll call vote was taken and the motion was approved with the following vote:

Ms. Vella	Aye
Dr. Webb	Aye
Dr. Dawson	Absent
Ms. DeLaurentiis.....	Aye
Mr. Griffin	Aye
Ms. Hasara.....	Aye
Mrs. Maitland	Aye
Mr. Montgomery.....	Aye
Mr. Oliver	Aye
Mr. Simmons	Aye
Rev. Tolliver	Aye

Compromise of Police Testing System and Operational Impact

Mr. Morelock informed the board that the Police Sergeant examination had been compromised at a university and that the Inspector General's office is in the process of completing the investigation. No further information can be relayed at this time.

The entire Police Series was updated late last year and with the security breach the Police Sergeant examination will need to be revised. The University System office has contacted I/O Solutions, a vendor specializing in police testing, to provide a cost analysis for the development of a new Sergeant examination. I/O Solutions provided a cost analysis of approximately \$5,000 to develop just the Police Sergeant examination. Mr. Morelock further stated that these costs had put a tremendous effect on the agency's budget and that at sometime in the future the University System office may need assistance from the universities to cover the cost of updating the entire Police Series, which is estimated to cost approximately \$50,000. The University System office plans to cover the expense of new Police Sergeant Examination from their current budget.

Report of the Executive Director

Executive Director Morelock provided an agency report which included the following items:

- updated the Merit Board on the current FY 2010 expenditures and obligations and the FY 2011 presentation to the Illinois Board of Higher Education in October
- discussed the Research Agreement with the University of Illinois at Urbana-Champaign to cover the expense of one graduate assistant at a cost of approximately \$16,000 for the academic year
- updated the Merit Board on the office lease and possible relocation
- FY 2009 Annual Report
- informed the Merit Board that the Office of the Auditor General staff will be conducting a compliance audit of the agency covering the period from July 1, 2007 – June 30, 2009 (FY 2008 and FY 2009)
- updated the Merit Board on the Audit Program with a copy of the audit schedule included in the agenda materials
- updated the Merit Board on the recent classification/examination changes

- informed the Merit Board of interagency activities with a list of University/Agency visits included in agenda materials

Report of the Human Resource Directors Advisory Committee – Maureen Parks

The Merit Board heard a report from Maureen Parks, Assistant Vice President for University Human Resources, University of Illinois. The committee last met on November 6, 2009. Ms. Parks informed the Board that the Human Resource Directors Advisory Committee has continued to discuss several of the issues that were brought up at the committee's August meeting. She indicated that the committee must continue to work together to strengthen the pilot program and address concern regarding grant/soft money, register maintenance, bumping rights, and the rule of three. The committee has met twice with University System staff on the Pilot Program which has been very positive.

She indicated that furlough rule proposal is a good proactive measure, however the committee has agreed to disagree with the University System office on some of the specific components in this proposal. The primary concern pertains to whether the University System office should approve furlough programs or just receive prior notification and whether employers are required to bargain furlough programs in accordance with state labor laws. The Board requested a copy of Ms. Park's comments.

Report of the State Universities Civil Service Advisory Committee – Barney Bryson, Chair

The Merit Board heard a report from Barney Bryson, Chair of the State Universities Civil Service Advisory Committee. The Committee last met on October 21 and 22, 2009 at Southern Illinois University Edwardsville. Also, the Committee met with the Council of Council organization, which includes representatives from each university/agency civil service council, on October 23, 2009. The Committee set the 2010 meeting dates. James Jones from UIC, Linda Wense from SIUE, and Barney Bryson from UIUC were reelected to the Committee.

Mr. Bryson expressed concern over the new furlough rule that the board had approved today. Specifically that the committee agreed to adopt the previous language and that the committee had not been contacted regarding these changes. The Committee is concerned that there is limited accountability or monitoring in place for these programs under the new version adopted by the Merit Board.

Report of Legal Counsel – Mary Follmer

Mary Follmer, Assistant Director, Legal Services, updated the Merit Board on outstanding legal matters. Ms. Follmer stated that thus far during FY 2010, 22 Written Charges for Discharge have been served on employees by the various universities/agencies. Eight employees have requested hearings. Out of those eight requests, one employee withdrew the request before the hearing, one settlement agreement was made during the hearing, one employee resigned before the hearing was held, one employee resigned after the hearing was held, and two cases that were pending have been resolved.

Additionally, there is one pending Administrative Review Case, Michael Rettig v. University Civil Service Merit Board et. al. Officer Rettig filed a complaint against the Merit Board and other Northern Illinois University officials seeking the reversal of a Merit Board Decision and Order entered on August 19, 2009. The complaint stems from an Executive Director's Review Decision wherein it was determined that Officer Rettig waived his right to a discharge hearing under the terms of a Last Chance Agreement. Count I of the Complaint requests review under the Administrative Review Law and seeks to have the cause remanded for a fact finding hearing. Count II alleges a due process violation and again seeks to have the cause remanded for a fact finding hearing but also asks for attorney's fees. Count III alleges a breach of contract but appears to be limited to the contractual relationship between Officer Rettig and NIU as established by the Last Chance Agreement. The Office of the Illinois Attorney General filed its appearance and answer on behalf of the Merit Board on October 21, 2009. The Notice of Motion for the Motion to Dismiss was held on November 17, 2009. We are still awaiting additional information on this action. The Attorney General is representing the Merit Board currently, but notice has been given to the provider of the agency's Errors and Omissions Insurance Policy. If in fact, Counts II and III are not dismissed, then the agency's Insurance Policy Attorney would be representing the University System and Board members.

Consideration of the 2010 Schedule of Meeting of the Merit Board

The Merit Board was presented with a meeting schedule for calendar year 2010. Mr. Simmons moved to approve the meeting schedule for calendar year 2010 with the February 17 meeting date changed to January 20, 2010. Ms. DeLaurentiis seconded Mr. Simmons' motion. In accordance with the Merit Board Bylaws, a voice vote was taken and the motion carried.

The 2010 meeting dates are:

- Wednesday, January 20, 2010
- Wednesday, May 19, 2010
- Wednesday, August 18, 2010
- Wednesday, November 17, 2010

Other Items as Presented

Mr. Simmons made a motion to adjourn the meeting. Ms. Vella seconded Mr. Simmons' motion. A voice vote was taken and approved. The meeting adjourned at 11:37 a.m.

Respectfully submitted,

/s/ Teresa M. Rademacher

Teresa M. Rademacher
Secretary for the Merit Board

APPROVED:

/s/ Joanne E. Maitland
Joanne E. Maitland, Chair

January 20, 2010
Date